

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

v.

WESLEY T. VAVRA,

Defendant.

8:22CR171**ORDER**

This matter is before the Court on defendant Wesley Vavra's ("Vavra") second Motion for Leave to Appeal in Forma Pauperis (Filing No. 96).¹ Generally, "[a] party who was permitted to proceed in forma pauperis in the district-court action, or who was determined to be financially unable to obtain an adequate defense in a criminal case, may proceed on appeal in forma pauperis without further authorization." Fed. R. App. P. 24(a)(3). Otherwise, a party who has been able to afford retained counsel in the district-court action must "file a motion in the district court" and attach to it an affidavit demonstrating the "party's inability to pay or to give security for fees and costs" on appeal. *Id.* 24(a)(1).

At the beginning of the proceedings in this matter, the Court appointed a federal public defender to represent Vavra. Vavra later retained his own defense counsel in October 2022. Vavra's retained counsel represented him at trial in August 2023, during which he was found guilty of attempted enticement of a minor—in violation of 18 U.S.C.

¹To be sure, no motion was ever filed as to either the first or second Motions for Leave to Appeal in Forma Pauperis in this matter. In both instances, a financial affidavit was filed, lacking the motion to which it should be attached. *See* Fed. R. App. P. 24(a)(1). The Court will construe the filing of the affidavits, however, as a motion to seek leave to appeal in forma pauperis.

§ 2422(b)—and at sentencing, when the Court sentenced Vavra to a 235-month term of imprisonment.

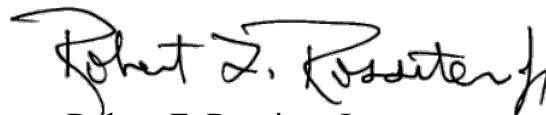
Upon filing a Notice of Appeal as to his conviction and sentence (Filing No. 93), Vavra also filed a Motion for Leave to Appeal in Forma Pauperis (Filing No. 94). The Court denied that motion, finding the filed affidavit was “mostly incomplete and lack[ed] the ‘detail prescribed’ by the form” that was necessary for the Court to determine Vavra’s financial ability to pay for retained counsel on appeal. Fed. R. App. P. 24(a)(1)(A). The Court advised Vavra that it would “reconsider the matter if Vavra files a sufficiently detailed affidavit.”

Vavra has now done so. Based on this additional information, the Court is satisfied that he should be entitled to proceed in forma pauperis on appeal.

IT IS SO ORDERED:

Dated this 8th day of December 2023.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Robert F. Rossiter, Jr.", with a stylized flourish at the end.

Robert F. Rossiter, Jr.
Chief United States District Judge